

SENATE BILL 883

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 67,
relative to tax refunds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-1-1802(a)(1)(A), is amended by deleting the following sentence:

Sales or use taxes which were collected from or passed on to customers by the taxpayer shall not be refunded, unless the taxpayer has refunded or credited the sales or use tax to its customers.

SECTION 2. Tennessee Code Annotated, Section 67-1-1802, is amended by inserting the following as a new subsection:

(e)

(1) As used in this section, "taxpayer" means:

(A) A dealer as defined in § 67-6-102 that remitted the sales or use taxes to the commissioner;

(B) A person that paid the sales or use taxes to a dealer that collected and remitted such taxes to the commissioner, if:

(i) The person requested a refund from the dealer and the dealer failed or declined to issue the refund; and

(ii) The dealer attests to the following under penalty of perjury on a form prescribed by the commissioner:

(a) The taxes were remitted to the department by the dealer, including the amount and the date remitted;

(b) The dealer has not claimed and will not claim a refund of such taxes;

(c) The dealer has not taken and will not take a credit for such taxes;

(d) The dealer's sales and use tax account number; and

(e) The local jurisdiction or jurisdictions for which any local sales tax included in the refund claim was collected and remitted; or

(C) A person that paid sales or use taxes to a dealer that collected and remitted such taxes to the commissioner, if:

(i) The person requested a refund from the dealer and the dealer failed or declined to issue the refund; and

(ii) The person reasonably attempted but was unable to obtain an attestation from the dealer as required under subdivision (e)(1)(B)(ii); provided, however, a refund shall not be issued to a taxpayer that files a claim for refund under this subdivision (e)(1)(C) unless the commissioner, in the commissioner's discretion, determines that sufficient information is reasonably available to verify that the taxes were remitted by the dealer to the department, that the dealer has not claimed a refund of such taxes, that the dealer has not taken a credit for such taxes, the dealer's sales and use tax account number, and the local jurisdiction or jurisdictions for which any local sales tax included in the refund claim was collected and remitted. For purposes of this

subdivision (e)(1)(C)(ii), a purchaser who contacts the dealer in writing at least ninety (90) days prior to the expiration of the statute of limitations for requesting such refund is deemed to have made a reasonable attempt to obtain the dealer's attestation.

(2) For a taxpayer as defined in subdivision (e)(1)(B) or (e)(1)(C) to file a claim for refund under this subsection (e), the amount of the claim for refund to be filed by such taxpayer must exceed one thousand dollars (\$1,000) per dealer.

(3) Any refund claimed by a taxpayer must otherwise meet the requirements of this section.

(4) Sales or use taxes that were collected from or passed on to customers by a taxpayer as defined in subdivision (e)(1)(A) shall not be refunded unless the taxpayer has refunded or credited the sales or use tax to its customers.

SECTION 3. This act takes effect on October 1, 2021, the public welfare requiring it.